

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 4638 of 2007(B)

PETITIONER:

P.N . RAJ, S/O.P.K. KUTTAPPAN,
AGED 53 YEARS, JOINT REGIONAL TRANSPORT
OFFICER, SUB R.T.O. OFFICE, ALATHUR,
PALAKKAD DISTRICT.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, DEPARTMENT
OF TRANSPORT, SECRETARIAT, TRIVANDRUM.
2. THE COMMISSIONER FOR TRANSPORT
TRIVANDRUM.

BY GOVT.PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13/03/2007 ALONG WITH W.P.(C) 5361/2007, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J

W.P.(C)NO.4638 & 5361 of 2007

Dated this the 13th day of March, 2007

JUDGMENT

Though the reliefs prayed for by the petitioners in these two writ petitions are not exactly similar, the cause for grievance is identical. These writ petitions are therefore disposed of by this common judgment.

2. The petitioners belong to the category of Joint Regional Transport Officer in the Motor Vehicles Department. Disciplinary proceedings were initiated alleging misconduct on their part. Pending finalisation of those proceedings, orders declaring the satisfactory completion of probation of the petitioner in W.P.(C) 5361/2007 was delayed. As far as the petitioner in W.P.(C) 4638/2007 is considered, despite the fact that he comes within the field of choice for transfer appointment to the post of Regional Transport Officer, his service records were not placed before the Departmental Promotion Committee to assess his

fitness for appointment as Regional Transport Officer.

3. The petitioners have approached this court seeking appropriate directions to the respondents.

4. During the pendency of these writ petitions, disciplinary proceedings were finalised as per G.O.(Rt)No.60/07/TRAN dtd.6.3.2007 imposing on the petitioners the penalty of censure. Counsel for the petitioners submits that the legal impediment that stood in the way of the authorities to consider the petitioner in W.P.(C)5361/2007 for declaration of probation and the case of the petitioner in W.P.(C)4638/2007, for being considered by the Departmental Promotion Committee for transfer appointment to the post of Regional Transport Officer, stands removed by the orders passed by the Government in G.O. dated 6/3/2007. Hence there is no justification not to consider their right for probation and right for promotion, as the case may be.

5. I have heard the Government Pleader for the respondents.

6. There is substance in the contention of the counsel for the petitioner that if disciplinary proceedings alone were the impediment that stood in the way of the petitioner's case being considered in accordance with the rules relating to declaration of probation and rules relating to consideration by Departmental Promotion Committee for transfer appointment, that impediment shall be deemed to have been removed, and therefore, the petitioners' case shall be considered appropriately. I, therefore, dispose of these writ petitions issuing the following directions:

1) The confidential records and other service particulars relating to the petitioner in W.P.(C)4638/2007 shall be forwarded to the Convenor of the DPC for considering his case for transfer appointment to the post of Regional Transport officer in its next meeting. Ordered accordingly.

2) The case of the petitioner in W.P.(C)5361/2007 shall be considered for the purpose of declaration of probation in the post of Joint Regional Transport Officer and appropriate decision taken with reference to all relevant records and in accordance

with the relevant rules. If the petitioner comes within the field of choice, confidential records and other particulars relating to him shall be forwarded to the Convenor of the DPC for considering his case for selection to the post of Regional Transport Officer provided his probation is declared satisfactorily. In other words, consideration by DPC will depend upon the order to be passed with regard to his claim for declaration of satisfactory completion of probation. This shall be done within one month from the date of receipt of a copy of the judgment. No other directions are necessary in the facts and circumstances of this case.

K.K.DENESAN, JUDGE

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